

PINAL COUNTY  
FLOODPLAIN MANAGEMENT  
ORDINANCE

ORDINANCE NUMBER {INSERT NUMBER}



**PINAL COUNTY**  
WIDE OPEN OPPORTUNITY

AS APPROVED AND ADOPTED BY THE PINAL COUNTY FLOOD  
CONTROL BOARD OF DIRECTORS ON  
APRIL 10<sup>TH</sup>, 2019

EFFECTIVE AS OF  
MAY 10<sup>TH</sup>, 2019

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## **TITLE 1.0: AUTHORITY, PURPOSE AND TITLE**

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### **CHAPTER 1.05 STATUTORY AUTHORIZATION**

In A.R.S. § 48-3601 through § 48-3650, the Arizona State Legislature has delegated the responsibility to each county flood control district to adopt regulations consistent with the criteria adopted by the Director of Arizona Department of Water Resources pursuant to A.R.S. § 48-3609, designed to promote the public health, safety and general welfare of its citizenry. The floodplain regulations adopted by a district are intended to carry out the requirements of the National Flood Insurance Program and any term not otherwise defined in this chapter shall have the meaning set forth in 44 Code of Federal Regulations parts 59-78, as effective on October 1, 2007. Therefore, the Pinal County Flood Control District, Arizona, does ordain as follows:

### **CHAPTER 1.10 FINDINGS OF FACT**

- 1.10.010.** The Regulatory Floodplains of Pinal County are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- 1.10.020.** These flood losses are caused in part by the cumulative effect of obstructions in Regulatory Floodplains that increase flood heights and velocities, and when inadequately anchored, cause damage. Uses that are inadequately flood proofed, not elevated or otherwise protected from flood damage also contribute to flood loss.
- 1.10.030.** Pursuant to the authority granted in A.R.S. § 48-3609(B), judicious floodplain management requires the permitting of development within a watercourse, Regulatory Floodplain, or area with a contributing watershed that has flows greater than two hundred cubic feet per second (200cfs) during the one percent (1%) annual chance flood event so as not to cause obstruction, retardation, or diversion of flows within the area of jurisdiction.

### **CHAPTER 1.15 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to comply with the directive of A.R.S. § 48-3609 and 44 CFR Ch.1. *et seq.* (pertaining to the National Flood Insurance Program) to promote and protect the health, peace, safety, comfort, convenience, and general welfare of the residents within the jurisdictional area of Pinal County, Arizona; to minimize public and private losses due to flooding; and to enable Pinal County and its residents to participate in the National Flood Insurance Program (NFIP), receive Federal Disaster Assistance, obtain flood insurance and reduce the cost of flood insurance. It is the intent of the Pinal County Flood Control District, Arizona to:

- 1.15.010.** Protect the life, health, and property of County residents.

- 1.15.020.** Minimize expenditure of public money for costly flood control projects;
- 1.15.030.** Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 1.15.040.** Minimize prolonged business interruptions;
- 1.15.050.** Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, fiber optics and sewer lines; and streets and bridges located in Regulatory Floodplains and/or Erosion Hazard Zones;
- 1.15.060.** Help maintain a stable tax base by regulating development of Regulatory Floodplains so as to minimize future flood blight areas;
- 1.15.070.** Take all reasonable action to ensure that potential buyers have notice that property is in a Special Flood Hazard Area;
- 1.15.080.** Take reasonable action so that those who occupy the Special Flood Hazard Areas or the Regulatory Floodplain assume responsibility for their actions;
- 1.15.090.** Minimize flood damages and reduce the height and violence of floods which are caused by obstructions restricting the capacity of floodplains;
- 1.15.100.** Prevent unwise encroachment and building development within Regulatory Floodplains and/or Erosion Hazard Zones;
- 1.15.110.** Reduce the financial burden imposed on the community, its governmental units and its residents when such land is flooded;
- 1.15.120.** To protect, preserve, and maintain the natural and beneficial functions of the floodplains; and
- 1.15.130.** Maintain eligibility for disaster relief.
- 1.15.140.** Maintain eligibility for participation in the National Flood Insurance Program

## CHAPTER 1.20 TITLE

This Ordinance may be referred to as the Pinal County Floodplain Ordinance and is hereinafter referred to as the “Ordinance.”

## CHAPTER 1.25 METHODS OF REDUCING FLOOD LOSSES

These regulations take precedence over any less restrictive conflicting local laws, ordinances and codes. In order to accomplish its purposes, this ordinance includes methods and provisions for:

- 1.25.010.** Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities, or which would release materials of a dangerous or hazardous nature into the environment during a flood event;
- 1.25.020.** Requiring that uses vulnerable to floods and/or erosion, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 1.25.030.** Minimize the alteration of natural floodplain, stream channels, and natural protective barriers, and other riparian areas, which help accommodate or channel flood waters;
- 1.25.040.** Controlling filling, grading, dredging, and other development which may increase flood and/or erosion damage;
- 1.25.050.** Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood and/or erosion hazards in other areas; and
- 1.25.060.** Protecting the integrity of the floodplains, by regulating development in the unincorporated county which would affect the floodplains, by requiring a Floodplain Use Permit for development within a special flood hazard area, delineated floodplain, watercourse or an area with a contributing watershed that have flows greater than two hundred cubic feet per second (200cfs) during a one percent (1%) annual chance flood event.

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## **TITLE 2.0: DEFINITIONS**

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### **CHAPTER 2.05 DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. **100-Year (One-Hundred-Year)** – Statistical nomenclature, often used in hydrologic terms, to describe a flood or precipitation event having a one percent (1%) chance of being equaled or exceeded in any given year. See also “Base Flood”.
2. **500-Year (Five-Hundred-Year)** – Statistical nomenclature, often used in hydrologic terms, to describe a flood or precipitation event having a two-tenths percent (0.2%) chance of being equaled or exceeded in any given year.
3. **Accessory Structure** – A structure which is on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure.
4. **Accessory Use** – A use customarily incidental and subordinate to the principal use of a lot or building located upon the same lot or building site, which accessory use does not alter the principal use of such lot or building.
5. **Active Alluvial Fan** – Those locations where flooding, erosion, and/or deposition have occurred on the landform such as an alluvial fan in relatively recent time (the historic period, typically ten-thousand (10,000) years), and probably will continue to occur on that part of the landform.
6. **Administrative Floodplain** – See “Local Floodplain”.
7. **Aggradation** – The deposit of sediment in a watercourse or floodplain.
8. **Alleged Violator** – Any person as herein defined who is suspected of violating any flood control statute, regulation, ordinance, rule or terms and stipulations of a floodplain use permit or other written approval by the Flood Control District of Pinal County.
9. **Alluvial Fan** – A sedimentary deposit located at a topographic break, or sudden loss of lateral confinement, such as the base of a mountain, escarpment, or valley side, is composed of streamflow and/or debris flow sediments, and that has the shape of a fan either fully or partially extended. Alluvial fans may be active or inactive.
10. **Alluvial Fan Flooding** – Flooding that occurs only on alluvial fans and is characterized by flow path uncertainty so great that this uncertainty cannot be set aside in realistic assessments of flood risk or in the reliable mitigation of the hazard.
11. **Alluvial Plain** - A level or gently sloping tract or a slightly undulating land surface produced by extensive deposition of alluvium, usually adjacent to a river that periodically overflows its banks; it may be situated on a flood plain, a delta, or an alluvial fan.

12. **Apex** – A point on an alluvial fan below which the flow of the major stream that formed the fan becomes unpredictable and alluvial fan flooding may occur.
13. **Appeal** – A request for a review of the Floodplain Administrator's final decision or interpretation of any provision of this ordinance.
14. **Approximate Study** – A study which delineates floodplains based on the most reliable sources available where neither a floodplain nor a floodway has been determined by detailed engineering methodology.
15. **Area Drainage Master Plan (ADMP)** – A plan that is typically conducted subsequent, and in response to, the findings of an ADMS. The ADMP identifies the preferred alternatives of those identified in an ADMS. An ADMP provides minimum criteria and standards for flood control and drainage relating to land use and development.
16. **Area Drainage Master Study (ADMS)** – A study to develop stormwater hydrology and hydraulics for a watershed, to define drainage watercourses and systems, identify potential flood hazard areas, drainage problems, and recommend solutions and standards for sound floodplain and stormwater management. The ADMS may identify alternative solutions to a given flooding or drainage problem. See also “Watercourse Master Plan.”
17. **Area of Jurisdiction** – The one percent (1%) annual chance (100-year) delineated floodplains in the Pinal County, including public lands, excluding those incorporated areas of cities or towns which have elected to assume floodplain management powers and duties pursuant to A.R.S § 48-3610. For floodplain Management purposes, the area of jurisdiction includes Special Flood Hazard Areas, local Floodplains, delineated floodplains, and watercourses with contributing watersheds with flows greater than two hundred cubic feet per second (200cfs) in the unincorporated areas of the county.
18. **Area of Special Flood Hazard** – The land located in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. These areas are designated as Zone A, AE, AO, AH, and A1 through A30 on the Flood Insurance Rate Maps (FIRMs) and other areas determined by the criteria adopted by the Director of the Arizona Department of Water Resources. See also "Special Flood Hazard Area".
19. **Back Fill** – The placement of fill material within a specified depression, hole, or excavation pit below the surrounding adjacent ground level as a means of improving floodwater conveyance or to restore land to the natural elevations existing prior to excavation.
20. **Base Flood** – A flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or the “one percent (1%) annual chance flood”).
21. **Base Flood Elevation (BFE)** – The elevation shown on the Flood Insurance Rate Map for Zones AE, AH, A1-30, that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year. Also means the calculated water surface elevation for zones, and/or

regulatory floodplains, not listed above as determined by either an Arizona Registered Professional Civil Engineer or the Floodplain Administrator.

22. **Basement** – Any area of the building having its floor sub-grade - i.e., below ground level - on all sides.
23. **Board** – The Board of Directors of the Flood Control District of Pinal County. See also “Floodplain Board”.
24. **Breakaway Wall** – A wall that is not part of the structural support system of a building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the building.
25. **Building** – A habitable or non-habitable walled and roofed structure that is principally above ground; this includes a gas or liquid storage tank or a manufactured home. For the purposes of the ordinance, the definition also includes carports, shade structures, and pole-barns.
26. **Building Site** – The ground area of a building or buildings together with all contiguous open spaces as required by this title.
27. **Cease and Desist Order** – An order from the Pinal County Flood Control District prohibiting a person or entity to which it is directed from undertaking or continuing a particular activity or course of conduct.
28. **Clearing/Grubbing** – The removal of vegetation without disturbance of existing land surface contours.
29. **Commercial Development** – Any development and/or structure constructed mainly for the purpose of conducting business, including but not limited to retail stores, restaurants, shopping centers, business offices, gas stations, etc.
30. **Community** – Any state, area or political subdivision thereof, or any Indian tribe or authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
31. **Compensatory Storage** – The replacement of the quantity of floodplain storage volume below the base flood elevation that is lost due to the import of fill material or the placement of structures by the proposed development.
32. **Crawl Space** – A type of basement in which one cannot stand up; the height may be as little as a foot and the surface is often soil; it is convenient access to pipes, substructures and a variety of other areas. A crawl space cannot be used as living space but may be used as storage.
33. **Critical Facility/Critical Service** – Facilities and essential services including hospitals, emergency medical facilities, nursing homes and/or housing facilities likely to have occupants who may not be sufficiently mobile to avoid injury or death during a flood; police stations, fire stations, jails, prisons, emergency shelters, and/or emergency operation centers that are needed for public safety and/or flood response activities before, during and after a flood. Additionally, structures or facilities that



produce, use, or store highly volatile, flammable, explosive, toxic, and/or water-reactive materials are also considered critical facilities.

34. **Critical Feature** – An integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be compromised.
35. **Cumulative Tracking of Substantial Damage** – The total cost of all repairs to a building damaged by any origin occurring over the previous five (5) year period that would cumulatively increase its market value by more than fifty percent (50%) of its market value prior to the damage occurring.
36. **Cumulative Tracking of Substantial Improvement** – The total cost of all improvements, modifications, repairs, or additions to an existing building occurring over the previous five (5) year period that would cumulatively increase its market value by more than fifty percent (50%) of its current market value. This includes structures determined to be substantially damaged, regardless of the actual repair work performed. This term does not, however, include either: A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or B) Any alteration to an "historic structure," provided the alteration will not preclude the structure's continued designation as an "historic structure."
37. **Degradation** – The erosion of sediment in a watercourse or floodplain.
38. **Delineated Floodplain** – A graphical illustration of the area (e.g. mapped area) susceptible to inundation by a one percent (1%) annual chance flood based upon the results of an authorized study and which is included on either the Floodplain Management Maps for Pinal County or the Flood Insurance Rate Maps, or both.
39. **Design Flow** – The peak flow and peak volume of runoff resulting from the design storm generated within a defined area. Also called the design discharge.
40. **Design Storm** – The storm event that has a one percent (1%) annual chance of occurring within any given year which produces rainfall resulting in the peak design flow. Also called the 100-year storm (100-year or 100yr) that produces the peak design flow.
41. **Detention System** – A type of flood control system which delays the downstream progress of floodwaters in a controlled manner, generally through the combined use of a temporary storage area and a metered outlet device which causes a lengthening of the duration of flow and thereby reduces downstream flood peaks.
42. **Development** – Any man-made change to improved or unimproved real estate including, but not limited to: buildings, walls, paved and unpaved roadways, railroads or other structures, mining, dredging, filling, grading, landscaping, paving, excavation, drilling, or the storage of equipment or materials.
43. **Distributary Flow** – A specific drainage pattern in which defined channels divide, such that the number channels increase in the downstream direction. Distributary flow areas have channels which split and rejoin in a complex pattern.

44. **District** – The Pinal County Flood Control District.
45. **Drainage Area** – The upstream contributing area of land measured at a single point of drainage concentration which is expressed in units of area, also called a catchment area, watershed, or river basin.
46. **Dwelling** – A building or portion thereof designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, duplexes, townhouses, triplexes, manufactured homes, mobile homes, modular homes, and multiple-family dwellings, but not including hotels, motels, boarding, and lodging houses.
47. **Dwelling Unit** – A room or suite of two or more rooms that is designed for or is occupied by a person or persons for living purposes and having its own cooking and sanitary facilities.
48. **Elevation Certificate** – A form created by the Federal Emergency Management Agency (FEMA) to certify elevations for a building. It is used to ensure compliance with the Floodplain Management Regulations and to determine the proper flood insurance premium rates. The form is updated periodically by FEMA and must be certificate by a Registered Professional Engineer or Surveyor.
49. **Encroachment** – The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the conveyance capacity or characteristics of a floodplain.
50. **Encroachment Limit** – The limit of encroachment into the floodplain for a subdivision, commercial or industrial development that will not exceed the standards of this Ordinance.
51. **Enterprise** – Any corporation, association, labor union or other legal entity.
52. **Ephemeral Stream** – A stream or portion of a stream which flows briefly in direct response to precipitation in the immediate vicinity, and whose channel is at all times above the groundwater reservoir.
53. **Erosion** – The process by which the land surface of the earth is worn away due to the transport of solids caused by the hydraulic action of flowing water.
54. **Erosion Hazard Setback** – The minimum horizontal distance between a structure and the watercourse as measured from the top edge of the highest channel bank or edge of the regulatory floodplain, based upon the water-surface elevation of the base flood, whichever is closer to the channel centerline.
55. **Erosion Hazard Zone** – The area of lateral extent outside of a watercourse, stream, wash, or river that is subject to or has the potential to be subjected to the natural or manmade process of erosion and/or lateral migration.
56. **Exempt Use** – Any use of the delineated floodplain specifically exempted from this Ordinance by applicable law.
57. **Expansion to an Existing Manufactured Home Park or Subdivision** – The preparation of additional sites or lots by the construction of facilities for servicing lots on which the manufactured homes are to be affixed (including, at a minimum, the

installation of utilities, the construction of streets, and either final site grading or the pouring of concrete slabs).

58. **Fill** – The placement of soil material at a specified location to bring the ground surface up to a desired elevation.
59. **Fill Material** – Natural sands, dirt, soil and rock. For the purposes of floodplain management, fill material may include concrete, cement, soil cement, brick or similar material as approved by the Floodplain Administrator on a case by case basis.
60. **Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from: A) the overflow of floodwaters; B) the unusual and rapid accumulation or runoff of surface waters from any source; and/or C) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.
61. **Flood Control Board of Directors** – The Board of Directors of the Flood Control District of Pinal County.
62. **Flood Control District of Pinal County** – A political subdivision of the State of Arizona authorized by A.R.S. § 48-3601 through § 48-3650. The terms “Flood Control District of Pinal County” and “Pinal County Flood Control District” are interchangeable.
63. **Flood Control Structure** – Any structure whose purpose, whether partially or wholly, is to control or mitigate the damages caused by floodwaters.
64. **Flood Insurance Rate Map (FIRM)** – The official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
65. **Flood Insurance Study (FIS)** – The official report provided by the Federal Emergency Management Agency that includes flood profiles, Flood Insurance Rate Maps, and the water surface elevation of the base flood.
66. **Flood Resistant Materials** – Any building product capable of withstanding direct and prolonged contact without significant damage. Prolonged contact means at least 72 hours, and significant damage is any damage requiring more than low-cost cosmetic repairs (such as painting). Additional information can be found in the FEMA technical bulletins.
67. **Floodplain or Flood-Prone Area** – Any land area susceptible to being inundated by water from any source. See "Flood or Flooding".
68. **Floodplain Administrator** – The community official designated by title to administer and enforce the floodplain management regulations.
69. **Floodplain Board** – See “Flood Control Board of Directors”.

- 70. Floodplain Development Permit** – See “Floodplain Use Permit”.
- 71. Floodplain Management** – The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- 72. Floodplain Management Maps** – Any map prepared by a Registered Professional Engineer that, in accordance with standard engineering practice, delineates the one percent annual chance floodplain as part of a study or analysis commissioned or adopted by the Pinal County Flood Control District.
- 73. Floodplain Management Maps for Pinal County** – Maps which show a graphical representation of the floodplains in Pinal County which include Local Floodplains, Delineated Floodplains, Special Flood Hazard Areas, Erosion Hazard Zones, and watercourse or an area with a contributing watershed that have flows greater than two hundred cubic feet per second (200cfs) during a one percent (1%) annual chance flood event.
- 74. Floodplain Management Regulations** – This Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading, drainage, stormwater, and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
- 75. Floodplain Use Permit (FUP)** – A permit (license) issued by the Pinal County Flood Control District allowing development to occur within the one percent (1%) annual chance floodplain within the area of jurisdiction.
- 76. Flood Protection System** – Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees, and dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- 77. Floodproofing** – Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents by means other than elevation.
- 78. Flood-Related Erosion** – The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

79. **Floodway** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."
80. **Floodway Fringe** – The area of the floodplain on either side of the "Regulatory Floodway".
81. **Freeboard** – A factor of safety, usually expressed in feet above a flood level, for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.
82. **Functionally Dependent Use** – A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.
83. **Governing Body** – The local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.
84. **Grading** – The disturbance of existing land elevations by human or mechanical means.
85. **Habitable Structure** – A structure that is safe and can be occupied in reasonable comfort, such that it is closed in against the weather, provides running water, access to decent toilets and bathing facilities, heating, and electricity.
86. **Hardship** – An exceptional or unusual impact to a property which is peculiar to the property involved, caused by application of this Ordinance. Mere economic hardship alone is not exceptional.
87. **Hazardous Waste** – Garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, or other discarded materials, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining, and agricultural operations or from community activities which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating irreversible illness or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of or otherwise managed or any waste identified as hazardous pursuant to A.R.S. § 49-922. Hazardous waste does not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under § 402 of the Federal Water Pollution Control Act (P.L. 92-500; 86 STAT. 816) as amended, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (68 STAT. 919), as amended.

- 88. Head Cut** – A sudden downward change in channel bed elevation that propagates upstream resulting from a natural or manmade change to the sediment transport properties of the watercourse.
- 89. Highest Adjacent Grade** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 90. Historic Structure** – Any structure that is:
- A.** Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - B.** Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - C.** Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - D.** Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - 1.** By an approved state program as determined by the Secretary of the Interior or
    - 2.** Directly by the Secretary of the Interior in states without approved programs.
- 91. Inactive Alluvial Fan** – An alluvial fan where flood water typically is along incised channels and adjacent stable land.
- 92. Industrial Development** – Any development or structure constructed mainly for the purpose of production or distribution of products, materials, etc.
- 93. Intermittent Stream** - A stream where portions flow continuously only at certain times of the year, for example when it receives water from a spring, ground-water source or from a surface source, such as melting snow (i.e. seasonal). At low flow there may be dry segments alternating with flowing segments.
- 94. Lateral Migration** – The natural process by which the channel or channels of a stream, wash, watercourse, or river meanders and changes lateral position over time. Lateral migration can occur slowly as a function of natural erosion and sediment transport or rapidly as a result of a flood.
- 95. Local Floodplain** – A one percent (1%) annual chance (100-year) floodplain delineated using accepted engineering methods as part of a drainage study, Area Drainage Master Study, Area Drainage Master Plan, Watercourse Master Plan, floodplain analysis or hydraulic modeling report but that which is not included as a Special Flood Hazard Area on the Federal Emergency Management Agency’s Flood Insurance Rate Maps. Local Floodplains may also be draft or preliminary Special Flood Hazard Areas. For floodplain management purposes, Local Floodplains are

regulated similarly to Special Flood Hazard Areas. Also referred to as a “Locally Mapped Floodplain.”

96. **Levee** – A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding. Said structures run parallel to the general direction of flow.
97. **Levee System** – A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.
98. **Lowest Adjacent Grade** – The lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
99. **Lowest Floor** – The lowest floor of the lowest enclosed area, including the basement. See “Basement.” An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
100. **Manufactured/Mobile Home** – A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
101. **Manufactured Home Park or Subdivision** – A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
102. **Market Value** – Replacement cost of a structure less depreciation since construction.
103. **Master Planned Community** – A development by one or more developers of real estate that consists of residential, commercial, education, health care, open space and recreational components and that is developed pursuant to a long-range, multiphase master plan providing comprehensive land use planning and staged implementation and development.
104. **Mean Sea Level** – For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.
105. **Measurable Change** – In the context of this ordinance, measurable changes include water surface elevation increases of one tenth (0.1) of a foot and/or velocity changes of plus or minus ten (10) percent.
106. **Mining Reclamation Plan** – A plan for sand and gravel operations that defines hydrologic and hydraulic constraints; outlines methods of excavation, operation and site development; and provides procedures for final site reclamation pursuant to the Arizona Aggregate Mined Land Reclamation Act in Title 27 of the Arizona Revised Statutes (A.R.S. § 27-1201, *et seq.*).

- 107. Natural and Beneficial Functions of Floodplains** – Includes, but is not limited to the following: natural flood and sediment storage and conveyance, water quality maintenance, groundwater recharge, biological productivity, fish and wildlife habitat, harvest of natural and agricultural products, recreation opportunities, and areas for scientific study and outdoor education. Effective date of the adopted floodplain delineation in which the land, building or permanent structure is located, or August 3, 1984, the effective date of A.R.S. § 48-3601 *et seq.*, whichever is the earliest date.
- 108. Natural Channel** – See “Watercourse”
- 109. New Construction** – For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- 110. Nonconforming Use** – The use of any land, building or permanent structure lawfully existing either on the effective date of the adopted floodplain delineation in which the land, building or permanent structure is located, or August 3, 1984, the effective date of A.R.S. §48-3601 ET SEQ., whichever is the earliest date.
- 111. Obstruction** – Including, but not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
- 112. One-hundred-Year Flood or 100-Year Flood** – A common name for the flood having a one percent chance of being equaled or exceeded in any given year. See "Base flood or one percent (1%) annual chance flood."
- 113. Perennial Stream** – A stream or portion of a stream that flows year-round, is considered a permanent stream, and for which baseflow is maintained by ground-water discharge to the streambed due to the ground-water elevation adjacent to the stream typically being higher than the elevation of the streambed.
- 114. Person** – An individual, or the individual’s agent, a firm, partnership, association, corporation, municipality or an agent of the aforementioned groups, or this state or its agencies or political subdivisions.
- 115. Ponding** – A type of floodplain in which flood levels are controlled by a structure that blocks or restricts flow, in which no well-defined channel exists, and where the flood water has near-zero velocity.
- 116. Program** – The National Flood Insurance Program authorized by 42 U.S.C. 4001-4128.



- 117. Program Deficiency** – A defect in a community’s floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.
- 118. Reach** – A hydraulic engineering term used to describe longitudinal section of a stream or watercourse.
- 119. Recreational Vehicle** – A vehicle which is:
- A.** Built on a single chassis;
  - B.** Four hundred (400) square feet or less when measured at the largest horizontal projection;
  - C.** Designed to be self-propelled or permanently towable by a light-duty truck; and
  - D.** Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- 120. Regulatory Flood Elevation (RFE)** – An elevation one (1) foot above the base flood elevation for a watercourse for which the base flood elevation has been determined and shall be determined by the criteria developed by the Director of the Arizona Department of Water Resources for all other watercourses.
- 121. Regulatory Floodplain** – A floodplain regulated by this ordinance which includes Special Flood Hazard Areas, Delineated Floodplains, Local Floodplains, or a watercourse or an area with a contributing watershed that have flows greater than two hundred cubic feet per second (200cfs) during a one percent (1%) annual chance flood event.
- 122. Regulatory Floodway** – The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. See also “Floodway”.
- 123. Regulatory Watercourse** – Any watercourse conveying on-site or off-site runoff in excess of two hundred cubic feet per second (200cfs) during the design storm or any watercourse that has been designated by FEMA as having a Special Flood Hazard Area.
- 124. Remediation** – Returning a site that has been disturbed to an acceptable condition of flow conveyance, erosion control, and environmental compliance by actions of the property owner or their representative.
- 125. Remedy a Violation** – To bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.
- 126. Repetitive Loss Structure** – A structure, covered by a contract for flood insurance issued pursuant to the National Flood Insurance Act, that has incurred flood-related

damages on two separate occasions during any ten (10) year period for which the cost of repairs at the time of each such event, on the average, equals or exceeds twenty five percent (25%) of the market value of the structure before the damage occurred. This is also known as “repetitive loss”.

127. **Retention System** – A system that stops the progression of runoff in a controlled manner through the use of storage facilities, allowing for the release of the runoff through natural percolation or through a man-made infiltration system such as a dry well.
128. **Riparian Area** – Vegetation, habitats, or ecosystems that are associated with bodies of water (streams or lakes) or are dependent on the existence of perennial, intermittent, or ephemeral surface or subsurface water drainage.
129. **River Morphology** - The study of the channel pattern and the channel geometry at several points along a river channel, including the network of tributaries within the drainage basin. Also known as channel morphology; fluviomorphology; stream morphology.
130. **Riverine** – Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
131. **Sand and Gravel Mining** – The excavation and removal of aggregates and sediments from the earth.
132. **Setback** – The minimum horizontal distance between a structure and the top edge of the highest channel bank of a watercourse.
133. **Solid Waste** – Any garbage, trash, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant or pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material but not including domestic sewage or hazardous waste.
134. **Solid Waste Landfill** – Either a public or private facility at which solid waste is placed on or in land for the purpose of long-range storage or disposal. Solid waste landfill does not include a land application unit, surface impoundment, injection well, compost pile or agricultural on-site disposal areas covered under A.R.S. § 49-766.
135. **Sheet Flow Area** – Flow that occurs overland in places where there are no defined channels, the flood water spreads out over a large area at a uniform depth. This also referred to as overland flow.
136. **Special Flood Hazard Area (SFHA)** – An area in the floodplain subject to a one percent (1%) or greater chance of flooding in any given year. It is shown on a Flood Insurance Rate Map as Zone A, AO, AE, AH or A99.
137. **Split Flow** – A split flow is a physical condition where runoff divides and continues along hydraulically-separate flow paths.
138. **Start of Construction** – Includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start

means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

139. **State Standards** – Documents defining standards for floodplain management adopted by the Director of the Arizona Department of Water Resources pursuant to A.R.S. § 48-3605(A).
140. **Structure** – anything constructed or erected above the natural grade.
141. **Subdivision** - Improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests. Includes a stock cooperative, lands divided or proposed to be divided as part of a common promotional plan and residential condominiums and does not include the exceptions as listed in A.R.S. § 32-2101.
142. **Subsidence** – A lowering in the elevation of the ground surface, a process which occurs as the underlying aquifer is drained, resulting in decreased volume because of pore collapse and compression of the sediment materials.
143. **Substantial Damage** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
144. **Substantial Improvement** – Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which, as determined by a licensed contractor or engineer, equals or exceeds fifty (50) percent of the pre-improved market value or the appraised value as determined by a competent appraiser whichever may be higher of the building or structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either: A) Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or B) Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.
145. **Variance** – A grant of relief from all or a portion of the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

- 146. Violation** – The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
- 147. Waiver** – To modify or substitute one technical requirement or standard for another where provisions in this Ordinance allow the Floodplain Administrator to exercise technical judgment in establishing permit requirements, for example, waiving erosion setback requirements based on geotechnical evidence.
- 148. Water Surface Elevation** – The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- 149. Watercourse** – A lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- 150. Watercourse Master Plan** – A hydrologic and hydraulic plan for a watercourse that examines the cumulative impacts of existing development and future encroachment in the floodplain and future development in the watershed on potential flood damages, and establishes technical criteria for subsequent development so as to minimize potential flood damages for all flood events up to and including the five hundred-year (500yr) flood.
- 151. Watershed** – See “Drainage Area”.
- 152. Wildlife Corridor** - Natural features such as Riparian Areas, canyons, ridgelines, and other landscapes features that constrain wildlife movements in more restricted paths. Sometimes called wildlife linkage.
- 153. Working Day** - A working day is defined as a full eight (8) hour day between the hours of 8AM and 4:30PM local time. Working days do not include weekends (Saturdays and Sundays) or federal holidays. Documents and permit applications submitted after 12:00PM on any given work day will be considered submitted on the following work day.
- 154. Zone A** – An area with an approximate delineation of a floodplain and in which base flood elevations have not been determined. See also “Special Flood Hazard Area.”
- 155. Zone AE** – An area with a detailed delineation of a floodplain and in which Base Flood Elevations have been determined. A floodway may be a part of this delineation. See also “Special Flood Hazard Area.”
- 156. Zone AH** – An area with flood depths of one (1) to three (3) feet (usually areas of ponding); Base Flood Elevations have been determined. See also “Special Flood Hazard Area.”
- 157. Zone AO** – An area with Flood depths of one (1) to three (3) feet (usually areas of sheet flow on sloping terrain); average flood depths have been determined. For areas

of alluvial fan flooding, velocities may have also been determined. See also “Special Flood Hazard Area.”

- 158. Zone AR** – Special Flood Hazard Area formerly protected from the one percent annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the one percent annual chance or greater flood. See also “Special Flood Hazard Area.”
- 159. Zone A99** – An area to be protected from the one percent annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations are determined. See also “Special Flood Hazard Area.”
- 160. Zone D** – An area in which flood hazards are undetermined, but possible.
- 161. Zone X (shaded)** – Areas of the two-tenths percent (0.2%) annual chance flood, areas of the one percent (1%) annual chance floodplain with average depths of less than one (1) foot or with drainage areas less than one (1) square mile; and areas protected by levees from the one percent (1%) annual chance flood.
- 162. Zone X** – Areas determined to be outside of the one percent (1%) and two-tenths percent (0.2%) annual chance floodplains.

## **TITLE 3.0: GENERAL PROVISIONS**

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### **CHAPTER 3.05 APPLICABILITY AND AREA OF JURISDICTION**

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for **Pinal County, Arizona & Incorporated Areas, Dated: December 4, 2007**” with accompanying FIRMs, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended which are recommended to the Board of Directors by the floodplain administrator. The Flood Control Board of Directors, within its area of jurisdiction, shall delineate (or may, by rule, require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources. The FIS and FIRM panels are on file at Pinal County Offices located in Florence, Arizona.

This Ordinance shall apply to all Regulatory Floodplains within the boundaries of the Pinal County except those incorporated cities and towns which have adopted a resolution in accordance with A.R.S. § 48-3610.

### **CHAPTER 3.10 FLOOD HAZARD STUDIES, OTHER FLOODPLAIN**

#### **DELINEATIONS**

Whenever the District determines through a flood hazard study, watercourse master plan or other flood related study authorized by the Board that a flood related hazard exists due to such factors such as high-velocity flows, erosion, sediment transport, deposition, unstable soil conditions or land subsidence, the Floodplain Administrator shall designate such hazard areas on the Floodplain Management Maps for Pinal County. The Floodplain Administrator shall establish technical criteria and enforce rules and regulations for subsequent development that meet or exceed criteria adopted by the Director, Arizona Department of Water Resources and when appropriate such studies may be forwarded to the Federal Emergency Management Agency.

### **CHAPTER 3.15 RULES**

When not inconsistent with the context, words used in the present tense include the future tense, words in the singular include the plural; words in the plural include the singular. Words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage. The word "shall" is mandatory and the word "may" is permissive. No provision of this Ordinance shall be construed to require written authorization for those exceptions set forth in A.R.S. § 48-3613(B) nor shall the Board of Directors prohibit said exceptions; however, those exceptions must comply with A.R.S. § 48-3613(C), which states, “Before any construction

authorized by A.R.S. § 48-3613(B) may begin, the person must submit plans for the construction to the Board for review and comment”.

### CHAPTER 3.20 CONSTRUCTION AND INTERPRETATION

- 3.20.010.** Nothing contained in this Ordinance shall be construed to limit or repeal any powers granted to the Pinal County Flood Control District under state statute. This Ordinance is not intended to repeal, abrogate, or impair any existing applicable requirements under federal, state, city, county, or other special district code, regulation, statute, or Ordinance.
- 3.20.020.** This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- 3.20.030.** In the interpretation and application of this Ordinance, all provisions shall be:
- A.** Considered as minimum requirements;
  - B.** Liberally construed in favor of the governing body; and
  - C.** Deemed neither to limit nor repeal any other powers granted under state statutes.

### CHAPTER 3.25 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods than what are regulated under this Ordinance can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards, regulatory floodplains, erosion hazard areas or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Pinal County, any officer or employee thereof, the State of Arizona, the Federal Insurance Administration, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

### CHAPTER 3.30 SEVERABILITY

This Ordinance and the various parts thereof are hereby declared to be severable. Should any section of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

### CHAPTER 3.35 STATUTORY EXCEPTIONS

- 3.35.010.** In accordance with A.R.S. § 48-3609(I), unless expressly provided, this and any regulation adopted pursuant to this article do not affect:

- A.** Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or structure is discontinued for twelve months, or destroyed to the extent of fifty percent (50%) of its value as determined by a competent appraiser or Pinal County floodplain administrator, any further use shall comply with this Ordinance and regulations of Pinal County.
- B.** Reasonable repair or alteration of property for the purposes for which the property was legally used on August 3, 1984, or any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by fifty percent (50%) or more shall be either floodproofed or elevated to or above the regulatory flood elevation. This does not preclude the requirement to obtain a Floodplain Use Permit to track the valuation of changes to the existing non-conforming structures.
- C.** Reasonable repair of structures constructed with the written authorization required by A.R.S. § 48-3613.
- D.** Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued pursuant to A.R.S. Title 40, Chapter 2, Article 6.2; and
- E.** In accordance with A.R.S. § 48-3613(D), in addition to other penalties or remedies otherwise provided by law, this state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this section or regulations adopted pursuant to A.R.S. Title 48, Chapter 21, Article 1. If a person is found to be in violation of this Section, the court shall require the violator to either comply with this Section if authorized by the Floodplain Board or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.

**3.35.020.** In accordance with A.R.S. § 48-3613, before any authorized construction begins for the exemptions listed below, the responsible person must submit plans for the construction to the Floodplain Administrator for review and comment; however, written authorization shall not be required, nor shall the District prohibit:

- A.** The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;
- B.** The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage to adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by A.R.S. Title 45, Chapter 6;



- C. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations that may divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the Flood Control Board of Directors pursuant to regulations adopted by the Flood Control Board of Directors under this article;
- D. Other construction upon determination by the Floodplain Board that written authorization is unnecessary;
- E. Any flood control district, county, city, town or other political subdivision from exercising powers granted to it under A.R.S. Title 48, Chapter 21, Article 1;
- F. The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision; and
- G. The construction and erection of poles, towers, foundations, support structures, guy wires and other facilities related to power transmission as constructed by any utility whether a public service corporation or a political subdivision.

**3.35.030.** Written authorization is not required for the installation or operation of remote monitoring stations or remote sensing stations, such as those used to collect stream-flow, precipitation, solar, weather, wind, and/or air quality data provide the device occupies a footprint no greater than 25 square feet. However, the responsible person must submit plans for the construction of such monitoring stations to the Floodplain Administrator for review and comment.

**3.35.040.** This section shall not exempt any person from obtaining a Floodplain Use Permit as set forth in this Ordinance for any use which alters, diverts, retards or obstructs the flow of water and creates a danger or hazard to life or property in the area.

**3.35.050.** These exemptions do not preclude any person from liability if that person's actions increase flood hazards to any other person or property.

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## **TITLE 4.0: ADMINISTRATION**

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### **CHAPTER 4.05 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The County Engineer or his or her designee is hereby appointed to administer, implement and enforce the provisions of this Ordinance.

### **CHAPTER 4.10 DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

Duties of the Floodplain Administrator shall include, but not be limited to:

**4.10.010. Establish Technical Criteria and Rules**

The Floodplain Administrator shall establish technical criteria and enforce rules and regulations for subsequent development that meet or exceed criteria adopted by the Director, Arizona Department of Water Resources. This may include the creation/adoption of design manuals, technical guidance documents, standard or typical plans, and substantive policy statements.

**4.10.020. Review all floodplain use permits to determine that:**

- A.** The permit requirements of this Ordinance, applicable statutes, and federal codes have been satisfied;
- B.** Applicants have certified that all other required state and federal permits have been obtained [44 C.F.R. Ch. 50, 60.2(a)(1) and (2)];
- C.** Structures are reasonable safe from flooding from the one percent (1%) annual chance flood event;
- D.** In areas where a floodway has not been designated, the proposed development does not adversely affect the carrying capacity of areas where Base Flood Elevations have been determined.
- E.** The proposed development does not result in an Adverse Impact to adjacent properties.

**4.10.030. Review all Development Permits**

Review all Development Permits to determine whether a Floodplain Use Permit is required or not.

**4.10.040. Review Permit Applications for Substantial Improvement and Substantial Damage:**

Review all development permits for improvements and/or damages to existing structures to determine if the application of the substantial improvement rules apply, including establishing a definition of market value determination and verifying that the estimated improvement and/or repair costs are less than 50% of the market value of the structure.

- A. The sum values of separate repairs, additions, remodels, and/or reconstruction qualify as a cumulative substantial damage or substantial improvement when counted over a rolling five (5) year period provided said structure has not been shown to be or otherwise brought into conformance with this Ordinance.
- B. Using FEMA publication FEMA 758, “Substantial Improvement/Substantial Damage Desk Reference,” develop procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining “Market Value”.
- C. Assure procedures are coordinated with other departments and divisions and implemented by community staff.

**4.10.050.** Utilize Other Base Flood Data as necessary:

When base flood elevation data has not been provided in accordance with Section **3.05**, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section **6.0**. Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources. The most recent and most technically and/or scientifically correct data will be considered the best available data for the purposes of administering this Ordinance.

**4.10.060.** Obtain and Maintain Records for Public Inspection

The Floodplain Administrator shall obtain and maintain for public inspection and make available as needed for Flood Insurance Policies the following records:

- A. The certified regulatory elevation required in Section 6.05.030.A, , & E, and 6.25.020; and
- B. The certification requirement in Section 6.05.030., B, &; and
- C. The floodproofing certification required in Section 6.05.030.C; and
- D. Maintain a record of all variance actions, including justification for their issuance.
- E. Obtain and maintain improvement and damage calculations required in Section 4.10.030.
- F. Permit records for improvements to structures over the life of the structure.
- G. Copies of both the effective and historic Flood Insurance Rate Maps as well as the Flood Insurance Studies that support them.
- H. Records for all other activities such as flood mitigation projects, board actions, and the issuance of substantive policy statements.
- I. Subdivision certification required in (6.20.020.A.2);
- J. Floodway Encroachment documentation required in (6.35.020)

#### **4.10.060.** Notification of Other Entities

- A.** Whenever a watercourse is to be altered or relocated:
  - 1. Notify adjacent communities and the Arizona Department of Water Resources prior to such alteration or relocation of a watercourse, and/or submit evidence of such notification to the Federal Emergency Management Agency through appropriate notification means; and
  - 2. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse be maintained.
- B.** Base flood elevation and rate of flow due to physical alterations:
  - 1. Base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six (6) months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
  - 2. Within one hundred and twenty (120) days after completion of construction of any flood control protective works which changes the rate of flow during the flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project. The new delineation shall be done according to the criteria adopted by the Director of the Arizona Department of Water Resources.
- C.** Corporate Boundary Changes:
  - 1. Notify the Federal Emergency Management Agency of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

#### **4.10.070.** Map Determinations

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The floodplain administrator shall determine the boundary using the best technical data available. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in **Section 7.0**. In the event presently platted or mapped special flood hazards and/or regulatory floodplains, floodways and erosion hazard areas are different than previously approved special flood hazards and/or regulatory floodplains, floodways and erosion hazard areas, the most recent information shall

apply.

- 4.10.080. Remedial Actions**  
Take actions on violations of this Ordinance as required in **Section 1.15** herein.
- 4.10.090. Collection of Fees**  
Collect Fees as designated and approved by the Flood Control Board of Directors.
- 4.10.100. Develop and/or Approve Standards and Procedures**  
Develop and/or approve Standards and/or Procedures (including but not limited to Substantial Damage, Substantial Improvement, etc.) for use by the Pinal County Flood Control District in enforcing, administering and/or interpreting the requirements and restrictions of this Ordinance.
- 4.10.110. Applications to FEMA Requiring Community Signature**  
Any applications to the Federal Emergency Management Agency (FEMA) that require the signature of the Community Official, such as applications for a Letter of Map revision (LOMR) and a Conditional Letter of Map Revision (CLOMR), shall be submitted to the Floodplain Administrator for review. They shall then be recommended by the Floodplain Administrator for approval or denial to the Board of Directors. If approved, the Chair of the Board shall sign as the Community Official on behalf of Pinal County Flood Control District.
- 4.10.120. Coordination**  
The Board of Directors and the Floodplain Administrator shall coordinate the provisions of this Regulation with all other interested and affected political subdivisions, federal and state agencies, as required by A.R.S. § 48-3609 and § 48-3610.

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## **TITLE 5.0: FLOODPLAIN USE PERMIT**

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### **CHAPTER 5.05 FLOODPLAIN USE PERMIT**

- 5.05.010.** A Floodplain Use Permit shall be obtained before construction or development, including placement of manufactured homes, structures, and accessory structures, construction of walls or fences, and additions, modifications or repairs to an existing structure, within any Regulatory Floodplain or Erosion Hazard Zone.
- 5.05.020.** For Critical Facilities/Critical Structures, a Floodplain Use Permit shall be required prior to the start of any construction, development, addition, repair, or modification within Regulatory Floodplain, or two-tenths percent (0.2%) annual chance floodplain or Erosion Hazard Zone.
- 5.05.030.** Application for a Floodplain Use Permit shall be made on forms furnished by the Floodplain Administrator.
- 5.05.040.** Upon receiving an application for a Floodplain Use Permit, the Floodplain Administrator may require that the applicant to submit the following, as applicable:
- A.** Plans, in duplicate drawn, to scale showing the nature, location, dimensions, and elevation of the area in question; existing and proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing, specifically, the following information is required:
    - 1.** Proposed elevation in relation to mean sea level, of the lowest floor (including basement or garage) of all structures, in Zone AO, elevation of existing highest adjacent natural grade and proposed elevation of lowest floor of all structures, certified by a registered professional engineer or surveyor.
    - 2.** Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
    - 3.** Certification by a registered professional engineer that the floodproofing methods for any non-residential structure meet the floodproofing criteria in **Section 6.05.030.B**;
    - 4.** Base Flood Elevation data for subdivision proposals or other development greater than 50 lots or 5 acres, whichever is the lesser,
    - 5.** Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
    - 6.** A statement or certification that the proposed development meets the minimum requirements of the ordinance and that the development does not result in an adverse effect to adjacent properties.
  - B.** Where special circumstances necessitate more detailed information, the applicant must furnish any or all of the following as deemed necessary by the Floodplain

Administrator for the evaluation of the safety of the proposed use, the effects of the proposed use upon flood flows and adjacent properties, and other factors necessary to render a decision on the suitability of the proposed use:

1. One or more cross-sections showing the existing shape of the channel, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information (if available);
  2. A profile showing the elevation and slope of the bottom of the channel or flow line of the stream or watercourse;
  3. A topographic survey of sufficient quality and accuracy to adequately determine property elevations, flood depths or elevations, and building floor elevations.
  4. Specifications for building construction and materials, flood proofing, filling, excavating, channel improvements, storage of materials, water supply, sanitary facilities;
  5. An engineering study prepared by an Arizona registered professional civil engineer outlining the effects of the development will have on the flow of water through the area being developed and the surrounding areas. This study will be for the purpose of evaluating possible flood hazards and shall, where necessary, include consideration of the effects of the development on flood heights, water velocities, direction of flow, sedimentation and /or erosion, volume of flows, channel shape and size, type of channel banks and other items that may be pertinent, and the resultant effects on structures, land, banks, etc. for the adjacent regulatory floodplain and the surrounding area.
- C. Prior to either pouring of the first slab, or the finished floor inspection, the applicant shall submit to the Floodplain Administrator a pre-construction certification of elevation, in compliance with the provisions of the Floodplain Use Permit, prepared by either an Arizona registered land surveyor or civil engineer. A final construction elevation certificate must be prepared just prior to the issuance of the Certificate of Occupancy. Such certification shall be maintained in the office of the Pinal County.

**5.05.030. Notice of Development, Agency Coordination**

It shall be the duty of the Floodplain Administrator, through the Flood Control District and Floodplain Administration Office of Pinal County (also known as the Pinal County Flood Control District) to issue the Floodplain Use Permits required by this ordinance. The Floodplain Administrator may request, and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of all departments, agencies, officials and public employees of Pinal County in the enforcement of this Ordinance. No license, permit, or other similar approval for any development which would be in conflict with the provisions of this Ordinance shall be issued by any department, official or employee of the county; and any such license,

permit or approval, if issued in conflict with the provisions of this Ordinance, shall be null and void.

**5.05.040. Specific Permit Conditions Authorized.**

All Floodplain Use Permits may be subject to conditions or restrictions designed to reduce or mitigate the potential danger or hazard to life or property resulting from development within the Regulatory Floodplain, Floodway, or Erosion Hazard Zone, depending on site specific conditions and the nature of the development.

The applicant may be required to execute deed restrictions running with the land or be required to post performance bonds, assurances, or such other security as may be appropriate and necessary to assure the performance of the conditions or restrictions that may be imposed.

Examples of the conditions that may be imposed include, but are not limited to, the following:

- A.** Modification of waste disposal and water supply facilities;
- B.** Limitations on periods of use and hours of operation;
- C.** Institution of operation and maintenance controls;
- D.** Requirements for construction of channel modifications and other protective measures;
- E.** Elevation of the lowest floor, including attached garages, to, or above, the regulatory flood elevation;
- F.** Bank protection or armor plating on any proposed fill;
- G.** Floodproofing measures for non-residential structures such as the following, which shall be designed to be consistent with an elevation one-half foot greater than the regulatory flood elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the base flood. The Floodplain Administrator may require the applicant submit a plan or document certified by an Arizona registered professional civil engineer that the floodproofing measures are consistent with an elevation one-half foot greater than the regulatory flood elevation and associated flood factors for the particular area. Examples of floodproofing measures that may be required include, but are not limited to:
  - 1.** Anchorage to resist floatation and lateral movement;
  - 2.** Installation of watertight doors, bulkheads and shutters;
  - 3.** Reinforcement of walls to resist water pressure;
  - 4.** Use of specialized paint, membranes or mortars to reduce seepage of water through walls;
  - 5.** Addition of mass or weight to structures to resist flotation;
  - 6.** Installation of pumps to lower water levels in structures;



7. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters;
8. Pumping facilities for subsurface external foundation wall and basement floor pressures;
9. Construction designed to resist rupture or collapse caused by water pressure or floating debris;
10. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

**5.05.050.** Permit Denial Conditions.

- A. No permit shall be issued for any Development which is not in conformance with this Ordinance or any provision of law relating to such development. A Floodplain Use Permit may be denied if the proposed development fails to meet the requirements of this Ordinance or otherwise constitutes a danger or hazard to life or property. In making such a determination, the Floodplain Administrator shall consider the following factors:
  1. The danger to life, person or property due to increased flood heights, velocities, or redirection of flow caused by the proposed development;
  2. The danger that materials may be swept on to other lands;
  3. The proposed water supply and/or sanitation systems of any development and the ability of these systems to prevent disease, contamination and unsanitary conditions if they should be flooded or eroded;
  4. The susceptibility of the proposed development or its contents to flood or erosion damage and the effects of such damage on the individual owners;
  5. The availability of alternative locations for the proposed use on the same property which are least likely to be or are not subject to flooding or erosion;
  6. The compatibility of the proposed use with existing regulatory floodplain uses and with floodplain management programs anticipated in the foreseeable future;
  7. The relationship of the proposed use to any comprehensive plan and floodplain management program for the area;
  8. The access to the property line in times of flood for conventional and emergency vehicles;
  9. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site under both existing and proposed conditions;
  10. Documentation that all necessary permits have been obtained from state and federal agencies;
  11. Documentation showing that the development does not have an Adverse Impact on adjacent properties.

12. Such other factors which are relevant to the purposes of this Ordinance.
13. Failure to respond to review comments or letters of a deficiency within a six month period.

**5.05.060. Permit Revocation.**

The Floodplain Administrator may revoke a Floodplain Use Permit for failure of the permit holder to comply with the terms of the Permit. The Floodplain Administrator shall provide written notice of the revocation to the permit holder by registered mail or personal delivery. The notice shall describe the provisions of the permit which have not been complied with which lead to the determination to revoke the permit.

The person holding the Floodplain Use Permit may request a meeting with the Floodplain Administrator, where the merits of and reasons for revoking the permit are heard, within ten calendar days of the receipt of notice or personal delivery. After considering the issues and facts presented during the meeting, the Floodplain Administrator may revoke a previously issued Floodplain Use Permit. If no request for a meeting is made within ten calendar days from the receipt of notice or personal delivery, the permit shall be considered revoked. The permit holder may appeal the decision of the Floodplain Administrator by requesting a hearing before the Flood Control Board of Directors.

**5.05.070. Natural and Beneficial Functions of the Floodplain and Protection of Environmentally Sensitive Areas**

Consistent with the Pinal County Comprehensive Plan, adopted November 18<sup>th</sup>, 2009, Pinal County Open Space and Trails Master Plan (2007), and the Pinal County Development Services Code, Pinal County Flood Control encourages the protection of distinctive natural environments. Areas that may be environmentally sensitive include floodplains, riparian areas, ephemeral, intermittent, and perennial streams, wetlands, subsidence and fissure zones, areas of steep slope, and Wildlife Corridors. Environmentally sensitive areas may require special consideration during the development design process.

**CHAPTER 5.10 FLOODPLAIN CLEARANCE**

**5.10.010.** The Floodplain Administrator shall review all Development Permits to determine whether a Floodplain Use Permit is required. A Floodplain Clearance may be issued for development permits and/or the review of plans to determine that structures are located outside of the Regulatory Floodplain or the Erosion Hazard Zone; or for other incidental uses not requiring a Floodplain Use Permit. The Floodplain Administrator may charge a fee for such review.

**5.10.020.** Before any construction authorized under Chapter 3.30 may begin, the person shall submit plans for construction to the Floodplain Administrator for review and comment and to determine whether a Floodplain Clearance or any of the exceptions set forth in Chapter 3.30 are applicable.

## **TITLE 6.0: PROVISIONS FOR FLOOD HAZARD REDUCTION**

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### **CHAPTER 6.05 STANDARDS FOR GENERAL DEVELOPMENT & CONSTRUCTION**

In Regulatory Floodplains and Erosion Hazard Zones the following standards apply:

#### **6.05.010. Anchoring**

- A.** All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and.
- B.** All manufactured homes shall meet the anchoring standards of **Section 6.25.030.**

#### **6.05.020. Construction Materials and Methods**

- A.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- B.** All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;
- C.** All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
- D.** Adequate drainage paths shall be constructed around structures on slopes to guide floodwaters around and away from proposed or existing structures and must be maintained.

#### **6.05.030. Elevation and Floodproofing**

- A.** New construction and substantial improvement/repair of any structure (except shade structures) shall have the lowest floor, including basement and/or attached garage, elevated to or above the Regulatory Flood Elevation. Nonresidential structures may meet the standards in **Section 6.05.030.B.** Upon the completion of construction of the building, the elevation of the lowest floor, including basement and/or attached garage, as well as the elevation of the lowest utility appurtenance servicing the building shall be certified by an Arizona Registered Civil Engineer or Arizona Registered Land Surveyor and provided to the Floodplain Administrator for review and approval.
  - 1.** For those structures located in Flood Zone AE or AH, the Base Flood Elevation is determined from the Flood Insurance Study (FIS) for Pinal County and/or the Flood Insurance Rate Map (FIRM).
  - 2.** For those structures located in Flood Zone AO, the structure shall have the lowest floor, including basement and/or attached garage, elevated higher

than the highest adjacent, undisturbed, natural grade by at least one (1) foot higher than the depth number shown on the Flood Insurance Rate Map (FIRM), or at least four (4) feet if no depth number is specified.

3. For those structures located in Flood Zone A where the Base Flood Elevation has not been determined, or for those structures located in a Locally Mapped Floodplain or any floodplain within the area of jurisdiction not listed above, the Based Flood Elevation is determined locally by the criteria set forth in **Section 4.10.040**.
- B.** Nonresidential construction, new or substantial improvement/repairs, shall either be elevated in conformance with **Section 6.05.030.A**, or together with attendant utility and sanitary facilities;
1. Be floodproofed to an elevation of at least one foot (1ft) greater than the Regulatory Flood Elevation (RFE) consisting of a building that is watertight with walls substantially impermeable to the passage of water and constructed out of flood resistant materials;
  2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  3. Be certified by an Arizona Registered Professional Civil Engineer that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator for review and approval.
- C.** For all new construction and substantial improvements/repairs of nonresidential structures, where the lowest floor is below the Regulatory Flood Elevation, or for residential structures where there exists a fully enclosed area below the lowest floor other than a basement, subject to flooding, and usable solely for parking of vehicles, storage or building access, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by an Arizona Registered Civil Engineer OR meet or exceed the following minimum criteria:
1. A minimum of two (2) openings, in line with the direction of flow on opposing walls, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  2. The bottom of all openings shall be no higher than one (1) foot above grade.
  3. Openings may be equipped with screens, louver, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D.** **Shade structures** built with no solid (structural) foundation other than footings to support columns and having fewer than two (2) solid walls may be constructed at grade provided that all of the following conditions are met:
1. Be constructed out of **flood resistant materials** for the portion of the structure that is below the base flood elevation; and

2. The owner must sign a **non-conversion agreement** which states that the owner will not enclose the shade structure or convert it into a habitable or non-habitable building. The use of the structure shall be limited to parking, access, and storage. The non-conversion agreement shall be recorded in the office of the Pinal County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- E. **Utility appurtenances** such as air conditioning units, swamp coolers, hot water heaters, propane tanks, etc servicing new construction or substantial improvements/repairs shall have their lowest point, elevated **to or above the Regulatory Flood Elevation**. In Zone AO, utility appurtenances shall have their lowest point elevated higher than the highest adjacent, undisturbed, natural grade of the building that is being served by at least one (1) foot higher than the depth number shown on the FIRM, or at least four (4) feet if no depth number is specified. Upon the completion of the building, the elevation of the lowest floor, including basement and/or attached garage, as well as the elevation of the lowest utility appurtenance servicing the building shall be certified by an Arizona Registered Civil Engineer or Arizona Registered Land Surveyor and provided to the Floodplain Administrator for review and approval.
- F. **All shelter buildings constructed in support of a communications facility** (radio, cellular, etc) shall have their lowest floor elevated at or above the Regulatory Flood Elevation. Modular or mobile shelter buildings shall be elevated such that their lowest horizontal structural member (bottom of structural frame) or the lowest point of any attached appliance, whichever is lower, is at or above the Regulatory Flood Elevation.
- G. Depending on the degree of encroachment into the Regulatory Floodplain, the Floodplain Administrator may require Compensatory Storage as part of the plan of development and Floodplain Use Permit approval in order to ensure that there is no increase in Base Flood Elevations.

## CHAPTER 6.10 STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT

- 6.10.010.** **The storage or processing of materials that could be injurious to human, animal or plant life if released due to damage from flooding is prohibited in the Regulatory Floodplain.**
- 6.10.020.** Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

## CHAPTER 6.15 STANDARDS FOR WASTE AND WASTE WATER DISPOSAL SYSTEMS

- 6.15.010.** All new or replacement water supply, water treatment and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- 6.15.020.** On-site waste disposal systems shall not be located within the Regulatory Floodplain if there is a location outside of the Regulatory Floodplain on the property where any on-site waste disposal system of any type, including alternative systems, can be placed. On-site waste disposal systems shall be allowed within the regulatory floodplain only if it can be certified that there is no location outside the floodplain, on the lot or neighboring lots under the same ownership, where the on-site disposal system, or any alternative system, can be located outside the floodplain to avoid impairment or contamination during flooding.
- 6.15.030.** Waste disposal systems shall not be installed wholly or partially in a Regulatory Floodway.
- 6.15.040.** Waste disposal systems shall not be installed within the Erosion Hazard Zone of any Regulatory Watercourse.
- 6.15.050.** Waste Water Treatment plants and public or community septic systems shall not be installed wholly or partially within the regulatory floodway or the Erosion Hazard Zone of any Regulatory Watercourse.

## CHAPTER 6.20 STANDARDS FOR SUBDIVISIONS (RESIDENTIAL, COMMERCIAL, INDUSTRIAL)

- 6.20.010.** Land may not be parceled or subdivided in such a manner to create lots unsuitable for development because of flood or erosion hazards. Whenever possible, all proposed building sites shall be outside any Regulatory Floodplain and/or Erosion Hazard zones.
- 6.20.020.** Requirement to Develop Base Flood Elevations.
- A.** All new subdivision proposals and other developments (including splits by record of survey, manufactured home parks and subdivisions) greater than or equal to fifty (50) units or five (5) acres, whichever is the lesser, affected by a Special Flood Hazard Area, as shown on the effective Flood Insurance Rate Maps (FIRMs), shall:
- 1.** Identify the area of special flood hazard and the elevation of the base flood.
  - 2.** Identify on the final plans the elevation(s) of the proposed structure(s) and pads. If the site is filled above the base flood elevation, the final lowest floor and grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator.

3. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
  4. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
  5. All subdivision proposals and other proposed development shall provide adequate drainage infrastructure to reduce exposure to flood hazards.
- B.** All drainage channels, natural or manmade, with a peak discharge of two hundred cubic feet per second (200cfs) or greater, during the base flood event (one percent (1%) annual chance event), shall have water surface elevations and erosion hazard setbacks calculated in accordance with standard engineering practice and shown in the design reports and on the improvement plans.

**6.20.030.** Requirement for CLOMR/LOMR:

- A.** Any new subdivision that proposes to alter or modify any existing Special Flood Hazard Areas, as shown on the current Flood Insurance Rate Map (FIRM panels), must:
  1. Submit a hydrologic and hydraulic analysis done in accordance with standard engineering practice to Pinal County as well as FEMA as part of a Conditional Letter of Map Revision (CLOMR). FEMA approval of the CLOMR must be supplied to the Flood Control District prior to the approval of the subdivision's final plat.
  2. Subsequent to the approval of a final plat, a Floodplain Use Permit shall be applied for, and approval of said permit obtained, to authorize the construction of new infrastructure within the Special Flood Hazard Area. After construction of the proposed improvements is complete, a Letter of Map Revision (LOMR) shall be prepared and submitted to Pinal County as well as FEMA.
  3. FEMA approval of the LOMR must be supplied to the Flood Control District, and the LOMR must become effective, prior to the issuance of any building permits for structures on lots located within in the Special Flood Hazard Area.

**6.20.040.** Flood Control Structures: The use of above ground flood control structures such as levees, dams, dikes, berms, embankments, etc. to protect new residential structures or residential lots from flooding or to revise the current FIRM panels requires specific authorization by the Flood Control District Board of Directors before a plan of development, Floodplain Use Permit, Conditional Letter of Map Revision, or Letter of Map Revision will be approved. Such flood control structures, if authorized by the Flood Control Board of Directors, shall meet all applicable Federal Emergency Management Agency (FEMA) and Army Corps of Engineers engineering standards. This provision does not prohibit the use of fill material as a method of elevating structures above the Base Flood Elevation.

**6.20.050.** Grading and Drainage improvement plans:

- A. All development plans shall show proposed grading and improvements for areas which are subject to flooding, erosion, or which have drainage problems, and shall also show a description and location of all facilities proposed to alleviate flooding, erosion, or drainage problems within or outside the boundaries of the subdivision or development.
- B. All development plans must be accompanied by grading plans and drainage improvement plans as necessary to demonstrate:
  - 1. The methods for floodproofing and/or flood control for the development, including sufficient lot grading information to demonstrate adequate finished pad elevations and/or drainage slopes to protect building foundations;
  - 2. That improvements are compatible with the existing upstream and downstream drainage conditions and that any proposed grading and/or grade change will not have an adverse impact on surrounding property;
  - 3. The methods of erosion and sediment control;
  - 4. The methods of mitigating increased urban peak and volumetric floodwater runoff or discharge on downstream properties created as a result of the development.
- C. Proposed pad and lowest floor elevations for each lot shall be shown on the grading and drainage improvement plans.
- D. Prior to commencement of any site improvements or grading, a grading plan must be submitted to the Pinal County Flood Control District for review and approval. Detailed improvement plans for storm drains or channel improvements must also be submitted to the Flood Control District for review and approval.

## CHAPTER 6.25 STANDARDS FOR MANUFACTURED HOMES

- 6.25.010.** Foundation Design Requirements: Placement of manufactured homes within Regulatory Floodplains having a Base Flood Elevation greater than one foot of flooding at the proposed building site shall have their foundations designed and certified by a Registered Professional Engineer licensed to practice in the state of Arizona. The foundation plan shall be submitted as part of the Floodplain Use Permit application and subject to review and approval by the Floodplain Administrator. If the base flood elevation is less than or equal to one foot of flooding at the proposed building site, the state standard plans for foundations in floodplains may be used in lieu of having a site specific foundation plan designed by an engineer.
- 6.25.020.** Elevation Requirements: All manufactured homes shall be elevated such that their lowest horizontal structural member (bottom of structural frame) is at or above the Regulatory Flood Elevation. All utility appurtenances and appliances shall be elevated such that their lowest point is elevated to or above the Regulatory Flood Elevation in



accordance to **Section 6.05.030.E**.

**6.25.030.** Anchoring Requirements: All manufactured homes shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

**6.25.040.** Manufactured Home Parks: For new manufactured home parks/subdivisions (including RV parks) or expansions to existing manufactured home parks/subdivisions (including RV parks) that equal or exceed fifty percent (50%) of the number of lots prior to expansion; and that are located within a Regulatory Floodplain or Erosion Hazard Zone, the following standards shall apply:

- A.** Adequate surface drainage and access for the hauler shall be provided;
- B.** All manufactured homes shall be placed on pads or lots elevated on compacted fill which shall be, at a minimum, at or above the Base Flood Elevation or on a stem wall or pilings such that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the Regulatory Flood Elevation.

**6.25.050.** Skirting Requirements

- A.** If skirting is to be installed on a manufactured home that extends below the base flood elevation:
  - 1.** Materials used must be flood resistant; and,
  - 2.** Materials must be non-rigid and installed in such a way to allow them to break away during a flood; or,
  - 3.** Flood openings must be provided that meet the following criteria:
    - a.** A minimum of two (2) openings, in line with the direction of flow on opposing walls, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
    - b.** The bottom of all openings shall be no higher than one (1) foot above grade.
    - c.** Openings may be equipped with screens, louver, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**6.25.060.** Certification Requirements:

- A.** Certification that the installation of a manufactured home meets all of the requirements of this section is required. Such certification shall be provided by the person installing the manufactured home, the owner, the developer of the manufactured home park or subdivision, or an agency regulating manufactured

home placement, whichever is deemed appropriate by the Floodplain Administrator.

- B.** A final elevation certificate shall be prepared by an Arizona Registered Land Surveyor and provided to the Floodplain Administrator for review and approval prior to the habitation of the structure.

## CHAPTER 6.30 STANDARDS FOR RECREATIONAL VEHICLES

All recreational vehicles placed on site for temporary occupation, within a Special Flood Hazard Area, Regulatory Floodplain or Erosion Hazard Zone, shall either:

- 6.30.010.** Be on site for fewer than one hundred and eighty (180) consecutive days, and be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, or
- 6.30.020.** Meet the permit requirements of **Title 5.0** of this Ordinance and the elevation and anchoring requirements for manufactured homes in **Section 6.25**.

## CHAPTER 6.35 STANDARDS FOR FLOODWAYS

Located within certain Special Flood Hazard Areas established in **Section 3.05** are areas designated as Floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, no structure, excavation, or fill material (including fill material for private roads, per A.R.S. § 48-3613(B)(1)), deposit, obstruction, storage of material or equipment or other uses shall be permitted which alone or in combination with existing or future uses, in the opinion of the Floodplain Administrator, would cause an increase in the Base Flood Elevations or flood damage potential. Depending on the degree of encroachment into the Regulatory Floodway, the Floodplain Administrator may require Compensatory Storage as part of the plan of development and Floodplain Use Permit approval in order to ensure that there is no increase in Base Flood Elevations. The following floodway standards apply:

- 6.35.010.** Shade structures may be constructed in the floodway provided they meet the requirements of **Section 6.05.030.D**.
- 6.35.020.** New Structures, Encroachments, No Rise Certification: Encroachments to the Floodway, including fill, new construction, Substantial Improvements/Repairs resulting in an increase in the building footprint, and other new development are prohibited in a Floodway, unless certification by an Arizona Registered Professional Engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Where an encroachment analysis certifying that a proposed development will result in no rise of the Base Flood has been provided, new structures shall be elevated on posts, piers, or columns such that:

- A. The lowest horizontal structural support of the building is at or above the Regulatory Flood Elevation; and,
- B. The area below the base flood elevation is kept open and clear to allow for the unimpeded passage of floodwaters during the Base Flood. Enclosure of the area below the Base Flood Elevation is prohibited; and,
- C. The area below the base flood elevation is constructed out of flood resistant materials; and,
- D. Certification that the above requirements have been met must be supplied to the Floodplain Administrator for review and approval.

**6.35.030.** Substantial Improvements/Repairs, Replacement Buildings, and other Encroachments occurring within the footprint of an existing building, No Rise Certification: Encroachments to the Floodway, including substantial improvement and replacement structures occurring within the same footprint as an existing structure, are prohibited in a Floodway, unless certification by an Arizona Registered Professional Engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. Where an encroachment analysis certifying that a proposed substantial improvement or replacement building will result in no rise of the Base Flood Elevation has been provided, the building must be elevated such that:

- i. The lowest floor elevation of the building is at or above the Regulatory Flood Elevation; and,
- ii. The area below the base flood elevation is constructed out of flood resistant materials; and,
- iii. Certification that the above requirements have been met must be supplied to the Floodplain Administrator for review and approval; or,
- iv. Substantial Improvements and/or the Replacement of non-residential buildings within the same footprint of an existing building may be flood proofed in accordance with section 6.05.030.B.

**6.35.040.** In accordance with A.R.S § 49-767(B)(2) solid waste landfills or any part of such facility, whether public or privately owned, shall not be located wholly or partially within a Floodway or within one-half mile of a one hundred year (100yr) floodplain that has flows in excess of twenty-five thousand cubic feet per second (25,000cfs), as determined by the Floodplain Administrator or the Federal Emergency Management Agency.

## CHAPTER 6.40 STANDARDS FOR EROSION HAZARD ZONES

The following conditions shall apply to all uses within the Erosion-Prone (Erosion Hazard) area:

- 6.40.010.** The Floodplain Administrator shall require permits for proposed construction and other development within all flood-related erosion-prone areas as known to the community.
- 6.40.020.** Permit applications shall be reviewed to determine whether the proposed site alterations and improvements will be reasonably safe from flood-related erosion and will not cause flood-related erosion hazards or otherwise aggravate the existing hazard.
- 6.40.030.** If a proposed development is found to be in the path of flood-related erosion or would increase the erosion hazard, such improvements shall be relocated or adequate protective measures shall be taken to avoid aggravating the existing erosion hazard.

#### CHAPTER 6.45 STANDARDS FOR CRITICAL FACILITIES/CRITICAL SERVICES

- 6.45.010.** Critical Facilities/Services should not be located in the Regulatory Floodplain if at all possible. If a Critical Facility/Service must be located in a the Regulatory Floodplain, it must be demonstrated that there is either a critical need to locate the Critical Facility/Service within the floodplain, and that there is not suitable alternative site, as determined by a rigorous alternative site evaluation report, performed by an Arizona Registered Civil Engineer.
- 6.45.020.** New or substantially improved or repaired Critical Facilities/Services located within a Regulatory Floodplain must be protected from the two-tenths percent (0.2%) annual chance flood event. Such protection is to include, but not limited to a lowest floor elevation a minimum of one (1) foot above the two-tenths percent (0.2%) annual chance floodplain water surface elevation, elevated access ramps, utilities and mechanical services, and adequately protected from both lateral and vertical erosion associated with the two-tenths percent (0.2%) annual chance floodplain.
- 6.35.030.** Critical Facilities and Services are prohibited from being constructed, or for existing facilities, being improved or repaired by an amount equal to or greater than fifty percent (50%) of the pre-improvement/repair market value within a Floodway.

#### CHAPTER 6.50 STANDARDS FOR SAND AND GRAVEL (AGGREGATE) MINING OPERATIONS

- 6.50.010.** A Floodplain Use Permit for the extraction of sand and gravel or other materials within the Floodway Fringe shall be granted if the applicant can demonstrate that excavations shall not have a cumulative adverse impact nor be of such depth, width, length, or location as to present a hazard to life or property or to the watercourse in which they

are located and comply with any applicable Watercourse Master Plan adopted by the Board of Directors subject to the following conditions:

- a. Unprotected excavations shall not be permitted so close to any floodplain crossings, utility structures or facilities as to cause or have the potential to cause an adverse effect on such crossings, utilities or similar facilities.
  - b. No stockpiling of tailings, overburden or sand and gravel which may obstruct, divert or retard the natural flow of tributaries to the main watercourse except as specifically approved by the Floodplain Administrator in the Floodplain Use Permit shall be permitted.
  - c. Dikes or levees are permitted provided it can be shown by the applicant that such dikes or levees shall not adversely effect structures, road or utility crossings, other public or private property, shall not cause erosion or diversion of flood flows onto property outside of the delineated floodplain, and shall not create a danger to life or property.
  - d. The plan of development shall include a plan of reclamation to leave the land when the approved use is terminated in such a condition as to maintain stability of the delineated floodplain or to an improved condition to enhance higher use of the land.
  - e. A plan of development shall be submitted with an application for a Floodplain Use Permit to the Floodplain Administrator. The Floodplain Administrator shall determine whether an engineered plan shall be required and whether a sediment transport analysis is necessary.
  - f. Any significant change, as determined by the Floodplain Administrator, in a previously approved plan of development shall require an application to amend the approved plan of development.
  - g. In order to control erosion and to preserve the natural and beneficial functions of the floodplain, removal of vegetation shall be the minimum necessary for the development.
  - h. The plan of development is subject to post-flood review and possible modification if necessary due to flood related changes in river morphology.
  - i. Erosion Setbacks shall meeting Arizona State Standards or as approved by the Floodplain Administrator.
- 6.50.020.** A Floodplain Use Permit for the extraction of sand and gravel or other materials within the Floodway shall be granted if the applicant can demonstrate that excavations shall not have a cumulative adverse impact nor be of such depth, width, length, or location as to present a hazard to life or property or to the watercourse in which they are located and comply with any applicable Watercourse Master Plan adopted by the Board of

Directors subject to the following conditions:

- a. Excavations shall not be permitted so close to any floodplain crossings, utility structures or facilities as to cause or have the potential to cause an adverse effect on such crossings, utilities or similar facilities.
- b. No stockpiling of tailings, overburden or sand and gravel which may obstruct, divert or retard the natural flow of tributaries to the main watercourse except as specifically approved by the Floodplain Administrator in the Floodplain Use Permit shall be permitted.
- c. A plan of development shall be submitted with an application for a Floodplain Use Permit to the Floodplain Administrator. The Floodplain Administrator shall determine whether an engineered plan shall be required and whether a sediment transport analysis is necessary.
- d. The plan of development shall include a plan of reclamation to leave the land when the approved use is terminated in such a condition as to maintain stability of the Floodway by backfilling, contouring, leveling, removal of equipment and materials or other appropriate means.
- e. Any significant change, as determined by the Floodplain Administrator, in a previously approved plan of development shall require an application to amend the approved plan of development.
- f. In order to control erosion and to preserve the natural and beneficial functions of the floodplain, removal of vegetation shall be the minimum necessary for the development.
- g. The plan of development is subject to post-flood review and possible modification if necessary due to flood related changes in river morphology.
- h. Erosion Setbacks shall meeting Arizona State Standards or as approved by the Floodplain Administrator.

## **TITLE 7.0: APPEALS AND VARIANCES**

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### **CHAPTER 7.05 APPEALS**

- 7.05.010.** Appeals of any permitting or enforcement decision of the Floodplain Administrator to the Flood Control Board of Directors shall be filed with the Floodplain Administrator within thirty (30) days from the receipt of notice of the decision to be appealed and shall be in writing on a form provided by the Floodplain Administrator. The notice of appeal shall specify the grounds for said appeal. All requests for appeals must be supported by scientific, technical or legal documentation that demonstrates that the granting of such an appeal would be warranted.
- 7.05.020.** While the appeal is pending, all existing floodplain delineations shall remain in effect. All other matters regarding the proceeding shall be stayed during its pendency unless the Floodplain Administrator certifies to the Flood Control Board of Directors that by reason of facts surrounding the application the stay would, in his opinion, cause imminent peril to life or property. In such cases the other matters shall not be stayed.
- 7.05.030.** The Flood Control Board of Directors shall fix a time for hearing the appeal and give notice to the parties in interest and to the public as set forth herein. The Flood Control Board of Directors shall hear and decide the appeal within a reasonable time.
- 7.05.040.** The Flood Control Board of Directors shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
- 7.05.050.** In passing upon such applications, the Flood Control Board of Directors shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:
- A.** The danger that materials may be swept onto other lands to the injury of others;
  - B.** The danger of life and property due to flooding or erosion damage;
  - C.** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - D.** The importance of the services provided by the proposed facility to the community;
  - E.** The necessity to the facility of a waterfront location, where applicable;
  - F.** The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
  - G.** The compatibility of the proposed use with existing and anticipated development;
  - H.** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - I.** The safety of access to the property in time of flood for ordinary and emergency

vehicles;

- J.** The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,
- K.** The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system, streets, and bridges.
- L.** The Floodplain Administrator shall maintain a record of all appeal actions, including justification for their issuance.

## CHAPTER 7.10 VARIANCES

**7.10.010.** The variance criteria set forth in this section of this Ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. Variances may be granted only if special circumstances, such as size, shape, topography, location or surroundings of the property, would cause the strict application of the Floodplain Management Regulations to deprive the property of privileges enjoyed by similar properties located in the Regulatory Floodplain. A variance is subject to conditions to ensure that the variance does not constitute a grant of special privileges inconsistent with the limitations on similar properties located in the Regulatory Floodplain. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners.

**7.10.020.** It is the duty of the Pinal County Flood Control District to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Regulatory Flood Elevation are so serious that variances from the flood elevation or from other requirements in the Floodplain Ordinance are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate. A variance is subject to conditions to ensure the variance does not constitute a grant of special privileges inconsistent with the limitations on similar properties located in the Regulatory Floodplain.

**7.10.030.** In passing upon such applications, the Flood Control Board of Directors shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:

- A.** All requests for variances must be supported by scientific or technical documentation that demonstrates that the granting of such a variance would be warranted.
- B.** Variances may be issued for the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic



Places, upon a determination that the proposed repair or rehabilitation will not preclude the structures continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

- C. Variances shall not be issued within any Floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued by the Flood Control Board of Directors when all of the following criteria are met:
  - 1. Showing of good and sufficient cause;
  - 2. That special circumstances, such as size, shape, topography, location or surroundings of the property, would cause the strict application of the Regulation to deprive the property of privileges enjoyed by similar property in the Regulatory Floodplain;
  - 3. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 2.0 of this ordinance in the definition of “Functionally Dependent Use.”
  - 4. Determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
  - 5. Determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - 6. The variance does not conflict with existing local laws or ordinances;
  - 7. That the variance does not constitute a grant of special privileges inconsistent with the limitations on similar property in the jurisdictional floodplain;
  - 8. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- E. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Regulatory Flood Elevation, provided the procedures of Sections 5.0 and 6.0 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- F. In addition to the above requirements, the Flood Control Board of Directors, may attach such conditions or restrictions to the granting of a Variance as it determines necessary to reduce or eliminate potential threats to public safety or to public or private property resulting from the granting of the variance. The applicant, among other things, may be required to post performance bonds, assurances or other security to guarantee compliance with the conditions and restrictions

imposed.

- G.** Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
  - 1.** The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance; and
  - 2.** Such construction below the base flood level increases risks to life and property; and
  - 3.** The land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided by A.R.S. § 37-610
  - 4.** A copy of the notice shall be recorded in the office of the Pinal County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- G.** The burden of proof of compliance with the above conditions shall be on the applicant.
- H.** The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.
- I.** The granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

## CHAPTER 7.15 FILING OF APPEALS AND REQUESTS FOR VARIANCES

- 7.15.010.** Any property owner appealing any written decision concerning the interpretation or administration of this Ordinance shall first appeal in writing to the Floodplain Administrator, within thirty (30) working days of the written decision. The appeal shall be deemed delivered to the District on the date the appeal is placed with the United States Postal Service in the form of Certified Letter with a Return Receipt Requested postage paid, or by personal delivery of the appeal to be signed by an agent of the District receiving the appeal acknowledging receipt of said notice. A date stamped copy of receipt by the District of the appeal shall be provided to the appealing party when personally delivered.
- 7.15.020.** The Floodplain Administrator shall make a written response within thirty (30) working days of receipt of the appeal. Within fifteen (15) working days of receipt of the written appeal the Floodplain Administrator may request such additional information as deemed necessary in order to render a written decision.

## **TITLE 8.0: VIOLATIONS AND ENFORCEMENT**

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### **CHAPTER 8.05 ENFORCEMENT & INSPECTIONS**

This section provides for the ability of the Pinal County Flood Control District to inspect properties.

#### **8.05.010. Inspections**

- A. Routine Inspections.** The Floodplain Administrator or his designee may have reasonable access for routine inspections during regular business hours. In cases of emergency, the District may inspect at any time. A District representative shall attempt to give forty-eight (48) hours advanced notice of the inspection and the owner, his designee or the alleged violator may accompany the District on the inspection. In addition, the District may include the right of inspection at any time without notice as part of the floodplain use permit authorization. A report of inspection shall be made and kept in the records of the District.
- B. Violation Inspection.**
  - 1.** If a report of a violation is received, the violation shall be investigated and inspected as necessary. If a District representative encounters damage or interference with a District facility, he/she shall report it to the District. The Floodplain Administrator or his designee shall review all alleged violations of the regulations, Ordinances, or rules of the District.
  - 2.** If an inspection is required to ascertain if a violation is occurring of any flood control statute, regulation, Ordinance or rule and access is denied, the Floodplain Administrator shall apply for and obtain an administrative search warrant. The search warrant shall be served by a peace officer. A record of an inspection made pursuant to this subsection shall be prepared and kept in the records of the District.
- C. Reinspection.** Reinspection shall be conducted within thirty (30) calendar days after the date set forth in the notice of violation to verify the correction of an alleged violation, or for a cease and desist order, within ten (10) working days after the notice of violation is served. If the alleged violation has not been corrected at the time of the reinspection, the District representative may, in writing, at their discretion, if they are convinced that a reasonable attempt is being made to correct the alleged violation, grant an extension of time, not to exceed ninety (90) calendar days in three incremental periods of thirty (30) calendar days each, for completion of the correction of the alleged violation as set forth in the notice. The first extension shall commence at the time of re-inspection with the section extension, if necessary, beginning at the termination of the first extension.
- D. Records Inspection.** At all times, the inspection may include viewing the set of development plans bearing the approval of the District required to be kept on site pursuant to the flood control statute, regulation, ordinance or rules. No other records may be inspected.

- E. Inspections for Unauthorized Damage and Interference with District Facilities. A District representative who encounters unauthorized damage or interference with District facilities shall document in a report such damage or interference which shall be kept in the records of the District.

## CHAPTER 8.10 RECOVERY OF ADMINISTRATIVE AND OTHER COSTS

The Pinal County Flood Control District shall be entitled to recover all costs, administrative, engineering and legal, as well as actual costs to remove or modify the structure, encroachment and any other work in violation of this Ordinance.

## CHAPTER 8.15 UNLAWFUL ACTS & VIOLATIONS

- 8.15.010.** It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without first securing the written authorization required by A.R.S. § 48-3613 and/or **Section 5.05** of this Ordinance. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.
- 8.15.020.** It is unlawful for any person, firm, or corporation to violate any of the provisions of this Ordinance.
- 8.15.030.** Any person found guilty of violating any provision of this Ordinance shall be guilty of a misdemeanor. Each day that a violation continues shall be a separate offense punishable as hereinabove described.
- 8.15.040.** Civil Remedies. As provided for by A.R.S. § 48-3613 (D) this State, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse, or the Flood Control District in the case of any violation of this Regulation, has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate this Regulation. If a person is found by the court to be in violation of this Regulation, the court shall require the violator to either comply with this Regulation, if authorized by the Board of Directors, or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.
- 8.15.050.** Declaration of Public Nuisance; Abatement. Pursuant to A.R.S. §48-3614 every new structure, building, fill, excavation, or development located or maintained in a floodplain since August 8, 1973 in violation of Title 48, Chapter 21, Article 1 of the Arizona Revised Statutes or this Regulation and without written authorization is a public nuisance per se and may be abated, prevented or restrained by action of the state or any of its political subdivisions.

**8.15.060.** Abatement of Violations. **Within thirty (30) calendar days of discovery of a violation** of this ordinance, the Floodplain Administrator shall either:

- A.** Take any necessary action to effect the abatement of such violation; or
- B.** Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination and to apply for and obtain a floodplain use permit. Such information must be provided to the Floodplain Administrator within 30 days of such order; or
- C.** Issue a variance to this ordinance in accordance with the provisions of Chapter 7.10 herein; or
- D.** Submit to the Federal Emergency Management Agency a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to Section 1316 of the National Flood Insurance Act of 1968 as amended.

**8.15.070.** Notice of Violation.

- A.** Contents of Notice of Violation
  - 1.** The notice of violation shall contain a specific description of the nature of the violation, where the violation is occurring and a specific description of the facts constituting the alleged violation.
  - 2.** The notice of violation shall identify the provisions of the applicable statutes, regulations, ordinances, rules or terms of the applicable floodplain use permit or other written floodplain approval which have been violated.
  - 3.** The notice of violation shall identify the actions required to correct the violation and an order to cease and desist any ongoing activity that is not in compliance with the applicable statutes, regulations, ordinances, rules or terms of the applicable floodplain use permit or other written floodplain approval which have been violated.
  - 4.** The notice of violation shall set forth a date by which the violation must be corrected.
  - 5.** A cease and desist order is effective on the date it is served.
  - 6.** The notice of violation shall contain the date, time and place where the person responding may appear or provide written documentation to show cause why the notice of violation should be vacated.
  - 7.** The notice of violation shall also contain a return for that the recipient can use to either admit the allegations or request a meeting with the floodplain administrator.
- B.** Service of the Notice of Violation. If a District representative determines that a violation is occurring on the subject property, he shall serve, or cause to be served, a notice of violation to the property owner and the alleged violator. If a

District representative determines that a District facility has been damaged or is being interfered with, he shall serve, or cause to be served, a notice of violation to the alleged violator. For purposes of this section, service shall be deemed complete upon:

1. Personal service to the recipient;
2. Receipt of the return receipt when mailing a notice of violation to a recipient, postage pre-paid, for certified mail, return receipt requested. A written notice is considered delivered five (5) working days after mailing;
3. Expiration of ten (10) working days from the date of posting the notice of violation on the property. Service by posting of the notice of violation may only be used where the owner, operator or alleged violator cannot be located after reasonable efforts by the District.

**8.15.080. Penalties**

- A. **Criminal Penalties.** The penalty for a criminal violation of the statutes, regulations, ordinances or rules of the District is a Class 2 Misdemeanor. A Class 2 Misdemeanor is punishable as follows:
  1. For an Individual: A fine not in excess of seven hundred and fifty dollars (\$750.00) and jail time not to exceed four (4) months. For an Enterprise: A fine not in excess of ten thousand dollars (\$10,000.00). A person or entity shall be charged with a separate violation for each and every day during any portion of which any violation of any provision of the statutes, regulations, ordinances or rules is committed, continued or permitted by such person.
- B. **Civil Penalties.** The civil penalty for violation of the statutes, regulations, ordinances or rules of the District is a fine not to exceed that which is chargeable for a Class 2 Misdemeanor. That fine is as follows:
  1. For an Individual: A fine not in excess of seven hundred and fifty dollars (\$750.00), per day. For an Enterprise: A fine not in excess of ten thousand dollars (\$10,000.00), per day. A person or entity shall be charged with a separate violation for each and every day during any portion of which any violation of any provision of the statutes, regulations, ordinances or rules is committed, continued or permitted by such person.
- C. **Strict Liability.** In addition to any criminal or civil penalties available, a person who damages or interferes with a facility owned, operated or otherwise under the jurisdiction of the District without written authorization from the District is strictly liable for both of the following:
  1. Any actual damages to persons, property or real property such as structures, landscaping, etc. that is caused by the damage or interference, and
  2. Payment of costs to the District for remediating the damage or interference.

## **TITLE 9.0: WATERCOURSE MASTER PLANS**

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### **CHAPTER 9.05 AUTHORITY**

Pursuant to A.R.S. §48-3609.01, the District, whenever it has completed a Watercourse Master Plan, may submit the plan, including uniform rules for development, to the Board of Directors for adoption. If adopted by the Board of Directors, the District shall enforce the Watercourse Master Plan under this Regulation.

### **CHAPTER 9.10 PUBLIC NOTIFICATION**

During the preparation of a Watercourse Master Plan, the owners of record of real property within and immediately contiguous to the watercourse or watercourses included in the planning shall be publicly notified by the District so that the owners may have input to the planning process. In addition, the Sand and Gravel Recommendations Committees organized pursuant to A.R.S. §11-830 (D), if any, shall be notified.

### **CHAPTER 9.15 GROUNDWATER RECHARGE**

All Watercourse Master Plans shall consider recharge techniques including but not limited to gabions, swales, dry wells, sand tanks and small dams.

### **CHAPTER 9.20 MINIMUM STANDARDS**

Requirements for preparation of a Watercourse Master Plan shall meet or exceed the minimum requirements under the National Flood Insurance Program (NFIP) or the criteria adopted by the Director of The Arizona Department of Water Resources or this Regulation. In case of conflict the most stringent requirements shall prevail.

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## **TITLE 10.0: AUTHORITY TO CHARGE FEES**

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### **CHAPTER 10.05 AUTHORITY OF FEE SCHEDULE**

In accordance with A.R.S. § 48-3601 the Flood Control Board of Directors, through the adoption of this Ordinance shall establish a fee schedule to cover the expense for regulating, enforcing and assuring compliance with this Ordinance.

### **CHAPTER 10.10 WAIVER OF FEES**

Fees may be waived on property owned by Federal, State, County or Municipal governments when said property is used by them in carrying out their governmental operations.

### **CHAPTER 10.15 REVISION OF FEES**

The Flood Control Board of Directors shall revise the fee schedule as needed to keep current with rising expenses to perform review and inspection services. The adoption or revision of the fee schedule shall not affect any change in this Ordinance.

**[Remainder of this page intentionally left blank]**



**TITLE 11.0: EFFECTIVE DATE**

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**CHAPTER 11.05 EFFECTIVE DATE**

This Ordinance, as adopted by the Board of Directors of the Flood Control District of Pinal County, Arizona, shall take effect thirty (30) calendars day from the date passed.

PASSED AND ADOPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Director – District 1

\_\_\_\_\_  
Director – District 2

\_\_\_\_\_  
Director – District 3

\_\_\_\_\_  
Director – District 4

\_\_\_\_\_  
Director – District 5

\_\_\_\_\_  
Clerk of the Board